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Environmental Protection

OCT 2 2006

ENVIRONMENTAL PROTECTION

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ATTORNEY GENERAL STATEMENT  
FOR CLEAN AIR MERCURY RULE  
40 C.F.R. Part 60


October 20, 2006

Pursuant to my authority as Attorney General of the State of Nevada and in accordance with the Clean Air Act § 111(c), as amended (42 U.S.C. § 7401, et seq.), and 40 C.F.R. Part 60, Subpart B; it is my opinion that the provisions of Nevada Revised Statutes 445B.100 through 445B.640, inclusive, provide adequate authority to carry out all aspects of the program submitted by the Director of the Department of Conservation and Natural Resources to EPA for approval to regulate emissions of mercury from coal-fired electric utility steam generating units in Nevada Clean Air Mercury Rule (Nevada CAMR). These statutes are appended to this opinion.

The specific authority to administer and enforce the Nevada CAMR program is contained in new and amended provisions of Nevada Administrative Code Chapter 445B. These regulations were adopted by the State Environmental Commission on September 6, 2006, approved by the Legislative Commission to Review Regulations on September 18, 2006 and effective on September 18, 2006 when they were filed with the Secretary of State. These regulations are provided in Appendix A of this submittal.

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By:

  
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## CHAPTER 445B - AIR POLLUTION

### GENERAL PROVISIONS

<a href="#">NRS 445B.100</a>	Declaration of public policy.
<a href="#">NRS 445B.105</a>	Definitions.
<a href="#">NRS 445B.110</a>	“Air contaminant” defined.
<a href="#">NRS 445B.115</a>	“Air pollution” defined.
<a href="#">NRS 445B.120</a>	“Commission” defined.
<a href="#">NRS 445B.125</a>	“Department” defined.
<a href="#">NRS 445B.130</a>	“Director” defined.
<a href="#">NRS 445B.135</a>	“Federal Act” defined.
<a href="#">NRS 445B.140</a>	“Hazardous air pollutant” defined.
<a href="#">NRS 445B.145</a>	“Operating permit” defined.
<a href="#">NRS 445B.150</a>	“Person” defined.
<a href="#">NRS 445B.155</a>	“Source” and “indirect source” defined.

### STATE ENVIRONMENTAL COMMISSION

<a href="#">NRS 445B.200</a>	Creation and composition; Chairman; quorum; compensation of members and employees; disqualification; technical support.
<a href="#">NRS 445B.205</a>	Department designated as State Air Pollution Control Agency.
<a href="#">NRS 445B.210</a>	Powers of Commission.
<a href="#">NRS 445B.215</a>	Notice of public hearing on regulations of Commission.
<a href="#">NRS 445B.220</a>	Additional powers of Commission.
<a href="#">NRS 445B.225</a>	Power of Commission to require testing of sources.
<a href="#">NRS 445B.230</a>	Powers and duties of Department.
<a href="#">NRS 445B.235</a>	Additional powers of Department.
<a href="#">NRS 445B.240</a>	Power of representatives of Department to enter and inspect premises.
<a href="#">NRS 445B.245</a>	Power of Department to perform or require test of emissions from stacks.

### LOCAL HEARING BOARD

<a href="#">NRS 445B.275</a>	Creation; members; terms.
<a href="#">NRS 445B.280</a>	Attendance of witnesses at hearing; contempt; compensation.

### PROVISIONS FOR ENFORCEMENT

<a href="#">NRS 445B.300</a>	Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act.
<a href="#">NRS 445B.310</a>	Limitations on enforcement of federal and state regulations concerning indirect sources.
<a href="#">NRS 445B.320</a>	Approval of plans and specifications required before construction or alteration of structure.
<a href="#">NRS 445B.330</a>	Notice of regulatory action: Requirement; method; contents of notice.
<a href="#">NRS 445B.340</a>	Appeals to Commission: Notice of appeal.
<a href="#">NRS 445B.350</a>	Appeals to Commission: Hearings.
<a href="#">NRS 445B.360</a>	Appeals to Commission: Appealable matters; action by Commission;

**regulations.**

## **VARIANCES**

<a href="#">NRS 445B.400</a>	Conditions and criteria for granting variance; power to revoke.
<a href="#">NRS 445B.410</a>	Renewal; protest and hearing on application for renewal.
<a href="#">NRS 445B.420</a>	Limitations on duration; annual review.
<a href="#">NRS 445B.430</a>	Granting and renewal discretionary.

## **VIOLATIONS**

<a href="#">NRS 445B.450</a>	Notice and order by Director; hearing; alternative procedures.
<a href="#">NRS 445B.460</a>	Injunctive relief.
<a href="#">NRS 445B.470</a>	Prohibited acts; penalty; establishment of violation; request for prosecution.

## **PROGRAM FOR CONTROL OF AIR POLLUTION**

<a href="#">NRS 445B.500</a>	Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.
<a href="#">NRS 445B.503</a>	Local air pollution control board in county whose population is 400,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.
<a href="#">NRS 445B.505</a>	Requirements for enacting ordinance or adopting regulation establishing fuel standards for mobile sources of air contaminants: Determination of cost effectiveness and feasibility; public meeting.
<a href="#">NRS 445B.508</a>	Reduction or mitigation of increases in emissions; air pollution credits.
<a href="#">NRS 445B.510</a>	Commission may require program for designated area.
<a href="#">NRS 445B.520</a>	Commission may establish or supersede county program.
<a href="#">NRS 445B.530</a>	Commission may assume jurisdiction over specific classes of air contaminants.
<a href="#">NRS 445B.540</a>	Restoration of superseded local program; continuation of existing local program.

## **MISCELLANEOUS PROVISIONS**

<a href="#">NRS 445B.560</a>	Plan or procedure for emergency.
<a href="#">NRS 445B.570</a>	Confidentiality and use of information obtained by Department; penalty.
<a href="#">NRS 445B.580</a>	Officer of Department may inspect or search premises; search warrant.
<a href="#">NRS 445B.590</a>	Account for the Management of Air Quality: Creation and administration; use; interest; payment of claims.
<a href="#">NRS 445B.595</a>	Governmental sources of air contaminants to comply with state and local provisions regarding air pollution; permit to set fire for training purposes; planning and zoning agencies to consider effects on quality of air.
<a href="#">NRS 445B.600</a>	Private rights and remedies not affected.
<a href="#">NRS 445B.610</a>	Provisions for transition in administration.

## **PENALTIES**

<a href="#">NRS 445B.640</a>	Levy and disposition of administrative fines; additional remedies available; penalty.
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## CONTROL OF EMISSIONS FROM ENGINES

<a href="#"><u>NRS 445B.700</u></a>	Definitions.
<a href="#"><u>NRS 445B.705</u></a>	“Approved inspector” defined.
<a href="#"><u>NRS 445B.710</u></a>	“Authorized inspection station” defined.
<a href="#"><u>NRS 445B.715</u></a>	“Authorized maintenance station” defined.
<a href="#"><u>NRS 445B.720</u></a>	“Authorized station” defined.
<a href="#"><u>NRS 445B.725</u></a>	“Commission” defined.
<a href="#"><u>NRS 445B.730</u></a>	“Evidence of compliance” defined.
<a href="#"><u>NRS 445B.735</u></a>	“Fleet station” defined.
<a href="#"><u>NRS 445B.737</u></a>	“Heavy-duty motor vehicle” defined.
<a href="#"><u>NRS 445B.740</u></a>	“Light-duty motor vehicle” defined.
<a href="#"><u>NRS 445B.745</u></a>	“Motor vehicle” defined.
<a href="#"><u>NRS 445B.747</u></a>	“Motor vehicle fuel” defined.
<a href="#"><u>NRS 445B.750</u></a>	“Passenger car” defined.
<a href="#"><u>NRS 445B.755</u></a>	“Pollution control device” defined.
<a href="#"><u>NRS 445B.757</u></a>	“Special fuel” defined.
<a href="#"><u>NRS 445B.758</u></a>	“Used motor vehicle” defined.
<a href="#"><u>NRS 445B.759</u></a>	Inapplicability to military tactical vehicles.
<a href="#"><u>NRS 445B.760</u></a>	Authority of Commission to prescribe standards for emissions from mobile internal combustion engines; trimobiles; standards pertaining to motor vehicles to be approved by Department of Motor Vehicles.
<a href="#"><u>NRS 445B.765</u></a>	Information concerning program for control of emissions from motor vehicles: Collection, interpretation and correlation; public inspection.
<a href="#"><u>NRS 445B.770</u></a>	Regulations of Commission: Control of emissions from motor vehicles; program for inspection and testing of motor vehicles.
<a href="#"><u>NRS 445B.775</u></a>	Regulations of Commission: Requirements for licensing of stations by Department of Motor Vehicles.
<a href="#"><u>NRS 445B.776</u></a>	Application for license must include social security number. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
<a href="#"><u>NRS 445B.777</u></a>	Payment of child support: Statement by applicant for license; grounds for denial of license; duty of Department of Motor Vehicles. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
<a href="#"><u>NRS 445B.778</u></a>	Suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
<a href="#"><u>NRS 445B.780</u></a>	Program for regulation of emissions from heavy-duty motor vehicles; equipment used to measure emissions; waiver from requirements of program.
<a href="#"><u>NRS 445B.785</u></a>	Regulations of Department of Motor Vehicles: Licensing of stations; performance of inspection and issuance of evidence of compliance; diagnostic equipment; fee, bond or insurance; informational pamphlet; distribution.
<a href="#"><u>NRS 445B.790</u></a>	Regulations concerning inspection of stations; grounds for denial, suspension or revocation of license of inspector or station.
<a href="#"><u>NRS 445B.795</u></a>	Compulsory program for control of emissions: Limitations.
<a href="#"><u>NRS 445B.798</u></a>	Authority of Department of Motor Vehicles, in larger counties, to conduct test of emissions from motor vehicle being operated on highway.
<a href="#"><u>NRS 445B.800</u></a>	Evidence of compliance: Requirements for registration, sale or long-term lease of used vehicles in certain counties.
<a href="#"><u>NRS 445B.805</u></a>	Evidence of compliance: Exemptions from requirements.
<a href="#"><u>NRS 445B.810</u></a>	State Department of Conservation and Natural Resources to provide assistance.
<a href="#"><u>NRS 445B.815</u></a>	Evidence of compliance: Duty of employees and agents of Department of Motor



**Vehicles; submission by owner or lessee of fleet.**

[NRS 445B.820](#) Installation and inspection of pollution control device.

[NRS 445B.825](#) Exemption of certain classes of motor vehicles; waiver from provisions of [NRS 445B.770 to 445B.815](#), inclusive.

[NRS 445B.830](#) Fees to be paid to Department of Motor Vehicles; Pollution Control Account; expenditure of money in Account; quarterly distributions to local governments; annual reports by local governments; grants; creation and duties of advisory committee; submission and approval of proposed grants.

[NRS 445B.832](#) Surcharge for electronic transmission of information: Authority to impose; inclusion as separate entry on form certifying emission control compliance; definition.

[NRS 445B.834](#) Additional fee for form certifying emission control compliance: Retention of portion of fee by station performing inspection; definition.

[NRS 445B.835](#) Administrative fine; hearing; additional remedies to compel compliance.

[NRS 445B.840](#) Unlawful acts.

[NRS 445B.845](#) Criminal penalty; enforcement of provisions by peace officer; mitigation of offense.

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## GENERAL PROVISIONS

### **NRS 445B.100 Declaration of public policy.**

1. It is the public policy of the State of Nevada and the purpose of [NRS 445B.100](#) to [445B.640](#), inclusive, to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of the State.

2. It is the intent of [NRS 445B.100](#) to [445B.640](#), inclusive, to:

(a) Require the use of reasonably available methods to prevent, reduce or control air pollution throughout the State of Nevada;

(b) Maintain cooperative programs between the State and its local governments; and

(c) Facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within a single jurisdiction.

3. The quality of air is declared to be affected with the public interest, and [NRS 445B.100](#) to [445B.640](#), inclusive, are enacted in the exercise of the police power of this State to protect the health, peace, safety and general welfare of its people.

4. It is also the public policy of this State to provide for the integration of all programs for the prevention of accidents in this State involving chemicals, including, without limitation, accidents involving hazardous air pollutants, highly hazardous chemicals, highly hazardous substances and extremely hazardous substances.

(Added to NRS by 1971, 1191; A 1993, 2851)

**NRS 445B.105 Definitions.** As used in [NRS 445B.100](#) to [445B.640](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 445B.110](#) to [445B.155](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1971, 1192; A 1973, 1811; 1993, 2852)—(Substituted in revision for NRS 445.406)

**NRS 445B.110 “Air contaminant” defined.** “Air contaminant” means any substance discharged into the atmosphere except water vapor and water droplets.

(Added to NRS by 1971, 1192)—(Substituted in revision for NRS 445.411)

**NRS 445B.115 “Air pollution” defined.** “Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in such quantity and duration as may tend to:

1. Injure human health or welfare, animal or plant life or property.

2. Limit visibility or interfere with scenic, esthetic and historic values of the State.

3. Interfere with the enjoyment of life or property.

(Added to NRS by 1971, 1192)—(Substituted in revision for NRS 445.416)

**NRS 445B.120 “Commission” defined.** “Commission” means the State Environmental Commission.

(Added to NRS by 1971, 1192; A 1973, 1811)—(Substituted in revision for NRS 445.421)

**NRS 445B.125 “Department” defined.** “Department” means the State Department of Conservation and Natural Resources.

(Added to NRS by 1973, 1808; A 1973, 1406; 1977, 1142)—(Substituted in revision for NRS 445.424)

**NRS 445B.130 “Director” defined.** “Director” means the Director of the Department or his designee or person designated by or pursuant to a county or city ordinance or regional agreement or regulation to enforce local air pollution control ordinances and regulations.

(Added to NRS by 1973, 1808)—(Substituted in revision for NRS 445.427)

**NRS 445B.135 “Federal Act” defined.** “Federal Act” means the Clean Air Act (42 U.S.C. §§ 7401 et seq.), which includes the Clean Air Act of 1963 (P.L. 88-206) and amendments made by the Motor Vehicle Air Pollution Control Act (P.L. 89-272, October 20, 1965), the Clean Air Act Amendments of 1966 (P.L. 89-675, October 15, 1966), the Air Quality Act of 1967 (P.L. 90-148, November 21, 1967), the Clean Air Amendments of 1970 (December 31, 1970) and any amendments thereto made after July 1, 1971.

(Added to NRS by 1971, 1192; A 1993, 2852)—(Substituted in revision for NRS 445.431)

**NRS 445B.140 “Hazardous air pollutant” defined.** “Hazardous air pollutant” means a substance designated as such by the Commission pursuant to [NRS 445B.210](#).

(Added to NRS by 1993, 2849)—(Substituted in revision for NRS 445.433)

**NRS 445B.145 “Operating permit” defined.** “Operating permit” means a permit signed and issued by the Director approving, with conditions, the construction and operation of a source of any air contaminant.

(Added to NRS by 1993, 2849)—(Substituted in revision for NRS 445.438)

**NRS 445B.150 “Person” defined.** “Person” includes the State of Nevada, political subdivisions, administrative agencies and public or quasi-public corporations.

(Added to NRS by 1971, 1192; A 1985, 517)—(Substituted in revision for NRS 445.441)

**NRS 445B.155 “Source” and “indirect source” defined.**

1. “Source” means any property, real or personal, which directly emits or may emit any air contaminant.

2. “Indirect source” means any property or facility that has or solicits secondary or adjunctive activity which emits or may emit any air contaminant for which there is an ambient air quality standard, notwithstanding that such property or facility may not itself possess the capability of emitting such air contaminants. Indirect sources include, but are not limited to:

- (a) Highways and roads;
- (b) Parking facilities;
- (c) Retail, commercial and industrial facilities;
- (d) Recreation, amusement, sports and entertainment facilities;
- (e) Airports;
- (f) Office and government buildings;
- (g) Apartment and condominium buildings;
- (h) Educational facilities; and
- (i) Other such property or facilities which will result in increased air contaminant emissions from motor vehicles or other stationary sources.

(Added to NRS by 1971, 1192; A 1973, 1811; 1975, 1781; 1977, 1558)—(Substituted in revision for NRS 445.446)

## STATE ENVIRONMENTAL COMMISSION

**NRS 445B.200 Creation and composition; Chairman; quorum; compensation of members and employees; disqualification; technical support.**

1. The State Environmental Commission is hereby created within the Department. The Commission consists of:

- (a) The Director of the Department of Wildlife;
- (b) The State Forester Firewarden;
- (c) The State Engineer;
- (d) The Director of the State Department of Agriculture;
- (e) The Administrator of the Division of Minerals of the Commission on Mineral Resources;

(f) A member of the State Board of Health to be designated by that Board; and

(g) Five members appointed by the Governor, one of whom is a general engineering contractor or a general building contractor licensed pursuant to [chapter 624](#) of NRS and one of whom possesses expertise in performing mining reclamation.

2. The Governor shall appoint the Chairman of the Commission from among the members of the Commission.

3. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

4. Each member who is appointed by the Governor is entitled to receive a salary of not more than \$80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

5. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. Any person who receives or has received during the previous 2 years a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by [NRS 445A.300](#) to [445A.730](#), inclusive, is disqualified from serving as a member of the Commission. The provisions of this subsection do not apply to any person who receives, or has received during the previous 2 years, a significant portion of his income from any department or agency of State Government which is a holder of or an applicant for a permit required by [NRS 445A.300](#) to [445A.730](#), inclusive.

7. The Department shall provide technical advice, support and assistance to the Commission. All state officers, departments, commissions and agencies, including the Department of Transportation, the Department of Health and Human Services, the Nevada System of Higher Education, the State Public Works Board, the Department of Motor Vehicles, the Department of Public Safety, the Public Utilities Commission of Nevada, the Transportation Services Authority and the State Department of Agriculture may also provide technical advice, support and assistance to the Commission.

(Added to NRS by 1971, 1192; A 1973, 908, 1406, 1720; 1975, 1404; 1977, 1142, 1220, 1484, 1561; 1979, 910, 1800; 1981, 1983; 1983, 2089; 1985, 424, 1991; 1989, 1288, 1715; 1989, 1288, 1715; 1993, 404, 1623; 1995, 579; 1997, 1998; [1999, 3623](#); [2001, 2616](#); [2003, 1564](#))

**NRS 445B.205 Department designated as State Air Pollution Control Agency.** The Department is:

1. Designated as the Air Pollution Control Agency of the State for the purposes of the Federal Act insofar as it pertains to state programs.

2. Authorized to take all action necessary or appropriate to secure to this state the benefits of the Federal Act.

(Added to NRS by 1971, 1139; A 1973, 1813)—(Substituted in revision for NRS 445.456)

**NRS 445B.210 Powers of Commission.** The Commission may:

1. Subject to the provisions of [NRS 445B.215](#), adopt regulations consistent with the general intent and purposes of [NRS 445B.100](#) to [445B.640](#), inclusive, to prevent, abate and control air pollution.

2. Establish standards for air quality.

3. Require access to records relating to emissions which cause or contribute to air pollution.

4. Cooperate with other governmental agencies, including other states and the Federal Government.

5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.

6. By regulation:

(a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and

(b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b),  
 based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.

7. Hold hearings to carry out the provisions of [NRS 445B.100](#) to [445B.640](#), inclusive, except as otherwise provided in those sections.

8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.

9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.

(Added to NRS by 1971, 1193; A 1973, 1813; 1993, 2852; 1997, 3230)

**NRS 445B.215 Notice of public hearing on regulations of Commission.** Notice of the public hearing on a



regulation which is to be considered by the Commission must be given by at least three publications of a notice in newspapers throughout the State, once a week for 3 weeks, commencing at least 30 days before the hearing.

(Added to NRS by 1971, 1194; A 1973, 1814; 1977, 69; 1981, 82)—(Substituted in revision for NRS 445.466)

**NRS 445B.220 Additional powers of Commission.** In carrying out the purposes of [NRS 445B.100](#) to [445B.640](#), inclusive, the Commission, in addition to any other action which may be necessary or appropriate to carry out such purposes, may:

1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

2. Recommend measures for control of air pollution originating in this state.

(Added to NRS by 1971, 1194; A 1973, 1814)—(Substituted in revision for NRS 445.471)

**NRS 445B.225 Power of Commission to require testing of sources.** The Commission may require the monitoring or source tests of existing or new stationary sources which can emit an air contaminant.

(Added to NRS by 1973, 1810)—(Substituted in revision for NRS 445.472)

**NRS 445B.230 Powers and duties of Department.** The Department shall:

1. Make such determinations and issue such orders as may be necessary to implement the purposes of [NRS 445B.100](#) to [445B.640](#), inclusive.

2. Apply for and receive grants or other funds or gifts from public or private agencies.

3. Cooperate and contract with other governmental agencies, including other states and the Federal Government.

4. Conduct investigations, research and technical studies consistent with the general purposes of [NRS 445B.100](#) to [445B.640](#), inclusive.

5. Prohibit as specifically provided in [NRS 445B.300](#) and [445B.320](#) and as generally provided in [NRS 445B.100](#) to [445B.640](#), inclusive, the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution.

6. Require the submission of such preliminary plans and specifications and other information as it deems necessary to process permits.

7. Enter into and inspect at any reasonable time any premises containing an air contaminant source or a source under construction for purposes of ascertaining compliance with [NRS 445B.100](#) to [445B.640](#), inclusive.

8. Specify the manner in which incinerators may be constructed and operated.

9. Institute proceedings to prevent continued violation of any order issued by the Director and to enforce the provisions of [NRS 445B.100](#) to [445B.640](#), inclusive.

10. Require access to records relating to emissions which cause or contribute to air pollution.

11. Take such action in accordance with the rules, regulations and orders promulgated by the Commission as may be necessary to prevent, abate and control air pollution.

(Added to NRS by 1973, 1808)—(Substituted in revision for NRS 445.473)

**NRS 445B.235 Additional powers of Department.** In carrying out the purposes of [NRS 445B.100](#) to [445B.640](#), inclusive, the Department may, if it considers it necessary or appropriate:

1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

2. On behalf of this State, apply for and receive funds made available to the State for programs from any private source or from any agency of the Federal Government under the Federal Act. All moneys received from any federal agency or private source as provided in this section shall be paid into the State Treasury and shall be expended, under the direction of the Department, solely for the purpose or purposes for which the grant or grants have been made.

3. Certify to the appropriate federal authority that facilities are in conformity with the state program and requirements for control of air pollution, or will be in conformity with the state program and requirements for control of air pollution if such facility is constructed and operated in accordance with the application for certification.

4. Develop measures for control of air pollution originating in the State.

(Added to NRS by 1973, 1809)

**NRS 445B.240 Power of representatives of Department to enter and inspect premises.**

1. Any duly authorized officer, employee or representative of the Department may enter and inspect any

property, premises or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with [NRS 445B.100](#) to [445B.640](#), inclusive, and rules and regulations in force pursuant thereto.

2. No person shall:

(a) Refuse entry or access to any authorized representative of the Department who requests entry for purposes of inspection, as provided in this section, and who presents appropriate credentials.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(Added to NRS by 1971, 1194; A 1973, 1815)—(Substituted in revision for NRS 445.476)

**NRS 445B.245 Power of Department to perform or require test of emissions from stacks.** The Department may perform a stack source emission test or require the source owner or operator to have such test made prior to approval or prior to the continuance of an operating permit or similar class of permits.

(Added to NRS by 1973, 1810; A 1975, 1405)—(Substituted in revision for NRS 445.477)

## LOCAL HEARING BOARD

**NRS 445B.275 Creation; members; terms.**

1. The governing body of any district, county or city authorized to operate an air pollution control program pursuant to [NRS 445B.100](#) to [445B.640](#), inclusive, may appoint an air pollution control hearing board.

2. The air pollution control hearing board appointed by a county, city or health district must consist of seven members who are not employees of the State or any political subdivision of the State. One member of the hearing board must be an attorney admitted to practice law in Nevada, one member must be a professional engineer licensed in Nevada and one member must be licensed in Nevada as a general engineering contractor or a general building contractor as defined by [NRS 624.215](#). Three must be appointed for a term of 1 year, three must be appointed for a term of 2 years and one must be appointed for a term of 3 years. Each succeeding term must be for a period of 3 years.

(Added to NRS by 1971, 1195; A 1973, 1815; 1975, 1782; 1997, 1068)

**NRS 445B.280 Attendance of witnesses at hearing; contempt; compensation.**

1. The district court in and for the county in which any hearing is being conducted may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the chairman of the hearing.

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena the chairman may report to the district court in and for the county in which the hearing is held, by petition setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in [NRS 445B.100](#) to [445B.640](#), inclusive; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing, and asking an order of the court compelling the witness to attend and testify or produce the books or papers in the hearing.

3. The court, upon petition of the chairman, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers in the hearing. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the chairman, the court shall thereupon enter an order that the witness appear in the hearing at the time and place fixed in the order and testify or produce the required books or papers, and upon a failure to obey the order the witness shall be dealt with as for contempt of court.

4. Witnesses may be compensated in the amounts provided in [NRS 50.225](#).

(Added to NRS by 1971, 1195; A 1973, 1816)—(Substituted in revision for NRS 445.486)

## PROVISIONS FOR ENFORCEMENT

**NRS 445B.300 Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act.**

1. The Commission shall by regulation:

(a) Require the person operating or responsible for the existence of each source of air contaminant, generally or within a specified class or classes, to apply for and obtain an operating permit for the source.

(b) Require that written notice be given to the Director before the construction, installation, alteration or establishment of any source of air contaminant or of any specified class or classes of such sources, or the alteration of any device intended primarily to prevent or reduce air pollution. If within the time prescribed by regulation the Director determines that:

(1) The proposed construction, installation, alteration or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted under [NRS 445B.100](#) to [445B.640](#), inclusive, or applicable regulations; or

(2) The design material or the construction itself is of such a nature that it patently cannot bring such source into compliance with [NRS 445B.100](#) to [445B.640](#), inclusive, or applicable regulations,  
E the Director shall issue an order prohibiting the construction, installation, alteration or establishment of the source or sources of air contaminant.

2. The Commission shall by regulation provide for:

(a) The issuance, renewal, modification, revocation and suspension of operating permits, and charge appropriate fees for their issuance in an amount sufficient to pay the expenses of administering [NRS 445B.100](#) to [445B.640](#), inclusive, and any regulations adopted pursuant to those sections.

(b) The issuance of authorizations for the issuance of building permits pursuant to paragraph (a) of subsection 2 of [NRS 445B.320](#).

3. Any failure of the Commission or the Department to issue a regulation or order to prohibit any act does not relieve the person so operating from any legal responsibility for the construction, operation or existence of the source of air contaminant.

4. All administrative fees collected by the Commission pursuant to subsection 2 must be accounted for separately and deposited in the State General Fund for credit to the Account for the Management of Air Quality. This subsection does not apply to any fees collected by political subdivisions or their agencies.

(Added to NRS by 1971, 1196; A 1973, 1816; 1993, 2853)—(Substituted in revision for NRS 445.491)

#### **NRS 445B.310 Limitations on enforcement of federal and state regulations concerning indirect sources.**

1. If any federal regulations relating to indirect sources become effective after January 17, 1977, the authority of a state agency to review new indirect sources may be exercised only:

(a) In the enforcement of those federal regulations; and

(b) To the extent enforcement by the state agency is required by the Federal Act.

2. The local air pollution control agency may enforce within its jurisdiction against existing indirect sources any federal or state regulations relating to indirect sources or any regulations it adopts relating to indirect sources, to the extent that:

(a) Local enforcement is not inconsistent with the requirements of any federal law or regulation; and

(b) Enforcement is necessary to comply with the federal standards for ambient air quality.

(Added to NRS by 1975, 1781; A 1977, 1559; 1981, 1539; 1985, 290; 1991, 1380)—(Substituted in revision for NRS 445.493)

#### **NRS 445B.320 Approval of plans and specifications required before construction or alteration of structure.**

1. The Commission shall require, with respect to all sources of air contaminant, including indirect sources, that plans, specifications and such other information as the Commission may direct be submitted to the Director not later than a specified interval before the construction or alteration of a building or other structure if such construction or alteration includes the establishment or alteration of a source or indirect source of air contaminant.

2. The local government authority, if any, responsible for issuing any required building permit shall not issue such building permit:

(a) Until the Department has given its authorization therefor, pursuant to regulation of the Commission.

(b) If a stop order prohibiting such construction or alteration has been issued.

(Added to NRS by 1971, 1197; A 1973, 1817; 1977, 1559; 1993, 2854)—(Substituted in revision for NRS 445.496)

**NRS 445B.330 Notice of regulatory action: Requirement; method; contents of notice.** When the Department takes any regulatory action, under the provisions of [NRS 445B.100](#) to [445B.640](#), inclusive, or under any rule, regulation, order or standard based thereon, it shall give reasonable notice to all parties by certified mail, which notice shall state the legal authority, jurisdiction and reasons for the action taken.

(Added to NRS by 1973, 1809)—(Substituted in revision for NRS 445.497)

**NRS 445B.340 Appeals to Commission: Notice of appeal.** A party aggrieved may file notice of appeal with the Commission within 10 days after the date of notice of action of the Department, except as otherwise provided by law.

(Added to NRS by 1973, 1809)

**NRS 445B.350 Appeals to Commission: Hearings.**

1. Within 20 days after receipt of the notice of appeal provided for in [NRS 445B.340](#), the Commission shall hold a hearing.

2. Notice of the hearing shall be given to all affected parties no less than 5 days prior to the date set for the hearing.

3. The Commission may sit en banc or in panels of three or more to conduct hearings.

4. The attendance of witnesses and the production of documents may be subpoenaed by the Commission at the request of any party. Witnesses shall receive the fees and mileage allowed witnesses in civil cases. Costs of subpoenas shall be taxed against the requesting party.

5. All testimony shall be given under oath, and recorded verbatim by human or electronic means.

6. For the purpose of judicial review under [NRS 445B.560](#), the parties may agree upon a statement of facts in lieu of a transcript of testimony.

7. Costs of transcribing proceedings of the Commission shall be taxed against the requesting party.

(Added to NRS by 1973, 1809)—(Substituted in revision for NRS 445.499)

**NRS 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations.**

1. Any person aggrieved by:

(a) The issuance, denial, renewal, modification, suspension or revocation of an operating permit; or

(b) The issuance, modification or rescission of any other order,

may appeal to the Commission.

2. The Commission shall affirm, modify or reverse any action taken by the Director which is the subject of the appeal.

3. The Commission shall provide by regulation for the time and manner in which appeals are to be taken to the Commission.

(Added to NRS by 1971, 1197; A 1973, 1818; 1977, 69; 1993, 2854)

## VARIANCES

**NRS 445B.400 Conditions and criteria for granting variance; power to revoke.**

1. The owner or operator of a source of air contaminant or a person who desires to establish such a source may apply to the Commission for a variance from its applicable regulations. The Commission may grant a variance only if, after public hearing on due notice, it finds from a preponderance of the evidence that:

(a) The emissions occurring or proposed do not endanger or tend to endanger human health or safety; and

(b) Compliance with the regulations would produce serious hardship without equal or greater benefits to the public.

2. A variance shall not be granted unless the Commission has considered the relative interests of first, the public; second, other owners of property likely to be affected by the emissions; and last, the applicant.

3. The Commission may in granting a variance impose appropriate conditions upon an applicant, and may revoke the variance for failure to comply.

(Added to NRS by 1971, 1197)—(Substituted in revision for NRS 445.506)

**NRS 445B.410 Renewal; protest and hearing on application for renewal.**

1. A variance may be renewed only under circumstances and upon conditions which would justify its original granting.

2. Application for any renewal must be made at least 60 days prior to expiration of the variance to be renewed, and the Commission shall give public notice of the application.

3. If a protest is filed with the Commission against the renewal, the Commission shall hold a public hearing and shall not renew the variance unless it makes specific, written findings of fact which justify the renewal.

(Added to NRS by 1971, 1198)—(Substituted in revision for NRS 445.511)

**NRS 445B.420 Limitations on duration; annual review.**



1. The following limitations of duration apply to all variances:

(a) If the variance is granted because no practical means is known or available for prevention, abatement or control of the air pollution involved, the variance shall continue only until such means become known and available.

(b) If the variance is granted because compliance with applicable regulations will require measures which, because of extent or cost, must be spread over a period of time, the variance shall be granted only for the requisite period as determined by the Commission, and shall specify the time when the successive steps are to be taken.

(c) If the variance is granted for any other reason, it shall be granted for 1 year or less.

2. A variance whose duration is limited by paragraph (a) or (b) of subsection 1 shall be reviewed at least once each year to determine whether practical measures have become available or required steps have been taken.

(Added to NRS by 1971, 1198)—(Substituted in revision for NRS 445.516)

**NRS 445B.430 Granting and renewal discretionary.** No applicant is entitled to the granting or renewal of a variance as of right.

(Added to NRS by 1971, 1198; A 1973, 1818; 1977, 70)—(Substituted in revision for NRS 445.521)

## VIOLATIONS

**NRS 445B.450 Notice and order by Director; hearing; alternative procedures.**

1. Whenever the Director believes that a statute or regulation for the prevention, abatement or control of air pollution has been violated, he shall cause written notice to be served upon the person or persons responsible for the alleged violation.

2. The notice shall specify:

(a) The statute or regulation alleged to be violated; and

(b) The facts alleged to constitute the violation.

3. The notice may include an order to take corrective action within a reasonable time, which shall be specified. Such an order becomes final unless, within 10 days after service of the notice, a person named in the order requests a hearing before the Commission.

4. With or without the issuance of an order pursuant to subsection 3, or if corrective action is not taken within the time specified:

(a) The Director may notify the person or persons responsible for the alleged violation to appear before the Commission at a specified time and place; or

(b) The Commission may initiate proceedings for recovery of the appropriate penalty.

5. Nothing in this section prevents the Commission or the Director from making efforts to obtain voluntary compliance through warning, conference or other appropriate means.

(Added to NRS by 1971, 1198; A 1973, 1818; 1975, 1405)—(Substituted in revision for NRS 445.526)

**NRS 445B.460 Injunctive relief.**

1. If, in the judgment of the Director, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of [NRS 445B.100](#) to [445B.640](#), inclusive, or any rule, regulation, order or operating permit issued pursuant to [NRS 445B.100](#) to [445B.640](#), inclusive, the Director may request that the Attorney General apply to the district court for an order enjoining the act or practice, or for an order directing compliance with any provision of [NRS 445B.100](#) to [445B.640](#), inclusive, or any rule, regulation, order or operating permit issued pursuant to [NRS 445B.100](#) to [445B.640](#), inclusive.

2. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in or is about to engage in such an act or practice, the control officer may request that the district attorney of the county in which the act or practice is being engaged in or is about to be engaged in apply to the district court for such an order.

3. Upon a showing by the Director or the control officer that a person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.

(Added to NRS by 1973, 1809; A 1993, 2854; [2001, 1295](#))

**NRS 445B.470 Prohibited acts; penalty; establishment of violation; request for prosecution.**

1. A person shall not knowingly:

(a) Violate any applicable provision, the terms or conditions of any permit or any provision for the filing of information;

(b) Fail to pay any fee;

(c) Falsify any material statement, representation or certification in any notice or report; or



(d) Render inaccurate any monitoring device or method, ~~is~~ required pursuant to the provisions of [NRS 445B.100](#) to [445B.450](#), inclusive, or [445B.470](#) to [445B.640](#), inclusive, or any regulation adopted pursuant to those provisions.

2. Any person who violates any provision of subsection 1 shall be punished by a fine of not more than \$10,000 for each day of the violation.

3. The burden of proof and degree of knowledge required to establish a violation of subsection 1 are the same as those required by 42 U.S.C. § 7413(c), as that section existed on October 1, 1993.

4. If, in the judgment of the Director of the Department or his designee, any person is engaged in any act or practice which constitutes a criminal offense pursuant to [NRS 445B.100](#) to [445B.640](#), inclusive, the Director of the Department or his designee may request that the Attorney General or the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.

5. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in such an act or practice, the control officer may request that the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.

(Added to NRS by 1993, 2850; A [2001, 1296](#))

## PROGRAM FOR CONTROL OF AIR POLLUTION

**NRS 445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.**

1. Except as otherwise provided in this section and in [NRS 445B.310](#):

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with [NRS 445B.508](#); and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of [NRS 445B.100](#) to [445B.640](#), inclusive, and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in [NRS 445B.210](#), [445B.240](#) to [445B.470](#), inclusive, [445B.560](#), [445B.570](#), [445B.580](#) and [445B.640](#) are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of [NRS 445B.215](#) with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of [chapter 238](#) of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. [NRS 445B.215](#) does not apply to the adoption of existing regulations upon transfer of authority as provided in [NRS 445B.610](#).

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of [NRS 445B.100](#) to [445B.450](#), inclusive, and [445B.500](#) to [445B.640](#), inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of [NRS 445B.100](#) to [445B.640](#), inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for

administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

(Added to NRS by 1971, 1199; A 1973, 1819; 1975, 1126, 1782; 1977, 1559; 1979, 546; 1985, 291; 1991, 2161; 1993, 175; 1997, 1999; [1999, 1976](#); [2001, 1296](#), [1515](#); [2003, 44](#))

**NRS 445B.503 Local air pollution control board in county whose population is 400,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.**

1. In addition to the duties set forth in [NRS 445B.500](#), the local air pollution control board in a county whose population is 400,000 or more shall cooperate with the regional planning coalition and the regional transportation commission in the county in which it is located to:

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, a local air pollution control board shall:

(a) Consult with the regional planning coalition and the regional transportation commission; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the regional planning coalition and the regional transportation commission; and

(2) Plans for capital improvements that have been prepared pursuant to [NRS 278.0226](#).

3. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to [NRS 445B.500](#).

(b) "Regional planning coalition" has the meaning ascribed to it in [NRS 278.0172](#).

(c) "Regional transportation commission" means a regional transportation commission created and organized in accordance with [chapter 373](#) of NRS.

(Added to NRS by [1999, 1975](#))

**NRS 445B.505 Requirements for enacting ordinance or adopting regulation establishing fuel standards for mobile sources of air contaminants: Determination of cost effectiveness and feasibility; public meeting.**

Before a district board of health, county board of health or board of county commissioners, pursuant to the authority granted to it by [NRS 445B.500](#), enacts an ordinance or adopts a regulation establishing fuel standards for mobile sources of air contaminants, the district board of health, county board of health or board of county commissioners shall:

1. Determine the cost effectiveness of the proposed ordinance or regulation by comparing it with other methods of controlling pollution.

2. Determine whether the proposed ordinance or regulation is technologically feasible based on evidence presented to the district board of health, county board of health or board of county commissioners relating to the availability, effectiveness, reliability and safety of any proposed technology when it is used for its proposed use.

3. Conduct public meetings to consult with public and private entities that would be significantly affected by the proposed ordinance or regulation.

(Added to NRS by 1997, 3229)

**NRS 445B.508 Reduction or mitigation of increases in emissions; air pollution credits.**

1. In a county whose population is 400,000 or more, a district board of health or board of county commissioners may, as a part of its program for the control of air pollution established pursuant to [NRS 445B.500](#), require each person or entity that is proposing to locate a new source of air pollution within its jurisdiction or to modify an

existing source of air pollution within its jurisdiction in such a way as to increase emissions of air pollutants, to reduce or mitigate any increase in emissions in accordance with regulations adopted by such board.

2. If a district board of health or board of county commissioners imposes the requirement described in subsection 1, its program established pursuant to [NRS 445B.500](#) must:

(a) Provide a method for determining credits which results in credits that are quantifiable, surplus and legally enforceable;

(b) Set forth the manner in which credits will be banked and traded, and the manner in which such transactions will be tracked and accounted for by the board; and

(c) By not later than January 1, 2002, prohibit any person or entity from purchasing or selling credits of one type of pollutant if such credits will be used subsequently to produce a different type of pollutant.

3. If a county operates a program for the control of air pollution that allows a person operating or responsible for the existence of a source to earn credits for maintaining or reducing the level of air contaminant emitted from the source, the program:

(a) Must allow the person to earn credits for reducing the level of air contaminant emitted from that source through the use of solar energy; and

(b) Must not allow the person to earn credits for reducing the level of air contaminant emitted from that source if such a reduction is required as a component of a penalty imposed against the person.

4. A credit earned pursuant to this section does not constitute an interest in property.

5. As used in this section:

(a) "Credit" means an administratively created asset that may:

(1) Entitle a person operating or responsible for the existence of a source to allow the source to emit a certain level of air contaminant above a baseline that is determined by the board;

(2) Be used to comply with the requirements of a permit; and

(3) Be traded or sold to another person.

(b) "Surplus" means that a credit is not earned by compliance with a requirement of the state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410 or any other federal, state or local law, ordinance or regulation.

(Added to NRS by [1999, 1976](#); A [2001, 1517](#); [2005, 2470](#))

#### **NRS 445B.510 Commission may require program for designated area.**

1. If the Commission finds that:

(a) The location, character or extent of particular concentrations of population or sources of air contaminant;

(b) Geographic, topographic or meteorological considerations; or

(c) Any combination of these factors,

it makes impracticable the maintenance of appropriate levels of air quality without an areawide air pollution control program, it shall after a public hearing define the area so affected.

2. If an areawide air pollution control program is not established by cooperative or interlocal agreement within a time specified by the Commission, the Commission shall establish such a program, which shall be a charge on the counties, and may supersede any local program within the area.

(Added to NRS by 1971, 1200)—(Substituted in revision for NRS 445.551)

#### **NRS 445B.520 Commission may establish or supersede county program.**

1. If a county required to establish or participate in an air pollution control program fails to do so, or if the Commission believes that a program previously approved is inadequate, it shall hold a public hearing. If it finds that an adequate program has not been adopted or that a program has become inadequate, it shall fix a time within which necessary corrective measures are to be taken.

2. If the prescribed measures are not so taken, the Commission shall direct the Department to administer an adequate air pollution control program within the county, which shall be a charge on the county, and may supersede any existing county air pollution control program.

(Added to NRS by 1971, 1200; A 1973, 1820)—(Substituted in revision for NRS 445.556)

#### **NRS 445B.530 Commission may assume jurisdiction over specific classes of air contaminants.**

1. If the Commission finds that the control of a particular class of sources of air contaminant because of its complexity or magnitude is beyond the reasonable capability of one or more local air pollution control authorities, it may assume and retain jurisdiction over that class in the county or counties so affected.

2. Sources may be classified for the purpose of this section on the basis of their nature or their size relative to the county in which they are located.

(Added to NRS by 1971, 1200)—(Substituted in revision for NRS 445.561)

**NRS 445B.540 Restoration of superseded local program; continuation of existing local program.**

1. A county or area whose local jurisdiction over air pollution control has been superseded may establish or restore a local air pollution control program if such program is approved as adequate by the Commission.
2. A district, county or city which has an air pollution control program in operation on July 1, 1971, may continue its program if within 1 year after July 1, 1971, the program is approved as adequate by the Commission. Such approval shall be deemed granted unless the Commission specifically disapproves the program after a public hearing. Nothing in [NRS 445B.100](#) to [445B.640](#), inclusive, is to be construed as invalidating any rule, regulation, enforcement action, variance, permit, cease and desist order, compliance schedule, or any other legal action taken by any existing air pollution control authority pursuant to former [NRS 445.400](#) to [445.595](#), inclusive, on or before July 1, 1971, unless it is specifically repealed, superseded or disapproved, pursuant to [NRS 445B.215](#).

(Added to NRS by 1971, 1200)—(Substituted in revision for NRS 445.566)

**MISCELLANEOUS PROVISIONS**

**NRS 445B.560 Plan or procedure for emergency.**

1. The Commission may provide by rules and regulations for alert, warning, and emergency standards and abatement procedures relative to air pollution episodes or emergencies constituting, or likely to constitute, an imminent and substantial danger to the health of persons.
2. Any person responsible for the operation of a source of air contaminants which is designated by the Director shall prepare and submit emergency plans for reducing or eliminating the emissions of air contaminants during such periods of air stagnation or air pollution episodes or emergencies as may be declared by the Director. The emergency plans shall be subject to review and approval by the Director. If, in the opinion of the Director, an emergency plan does not effectively carry out the objective of reducing or eliminating the emissions of air contaminants during periods of air stagnation or air pollution episodes or emergencies, the Director shall disapprove it, state the reason for disapproval, and order the preparation and submission of an amended emergency plan within the time period specified in the order. If an approvable emergency plan is not prepared and submitted within the time period specified in the order, the Director shall issue an emergency plan applicable to that person. Persons subject to the emergency plan shall obey the plan during periods of air stagnation or air pollution episodes or emergencies declared by the Director. The provisions of [NRS 445B.360](#) with respect to appeals do not apply to this subsection.
3. Any other provisions of law to the contrary notwithstanding, if the Director finds that a generalized condition of air pollution exists or that emissions from one or more air contaminant sources occur and that the condition or sources create, or are likely to create, an imminent and substantial danger to health requiring immediate action to protect human health and safety, the Director shall order persons causing or contributing to the air pollution or responsible for the operation of the source to reduce or discontinue immediately the emission of air contaminants. Any person subject to the order may appeal directly to the district court or request a hearing before the Commission.
4. This section does not limit any power of any other state officer to declare an emergency and to act on the basis of such declaration.

(Added to NRS by 1971, 1201; A 1973, 1820)—(Substituted in revision for NRS 445.571)

**NRS 445B.570 Confidentiality and use of information obtained by Department; penalty.**

1. Any information which the Department obtains in the course of the performance of its duties pursuant to the provisions of this chapter is public information unless otherwise designated as confidential information pursuant to the provisions of this section.
2. The emission of an air contaminant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by regulation of the Commission cannot be certified as being confidential.
3. Any confidential information received by the Commission, the Director or any local control authority which is certified in writing to the recipient as confidential by the owner or operator disclosing the information and verified and approved in writing as confidential by the recipient must, unless the owner expressly agrees to its publication or availability to the public, be used only:
  - (a) In the administration or formulation of air pollution controls;
  - (b) In compiling or publishing analyses or summaries relating to the condition of the outdoor atmosphere which do not identify any owner or operator or reveal any confidential information; or
  - (c) In complying with federal statutes, rules and regulations.
4. This section does not prohibit the use of confidential information in a prosecution for the violation of any statute, ordinance or regulation for the control of air pollution.
5. A person who discloses or knowingly uses confidential information in violation of this section is guilty of a



misdemeanor, and is liable in tort for any damages which may result from such disclosure or use.

6. As used in this section, "confidential information" means information or records which:

- (a) Relate to dollar amounts of production or sales;
- (b) Relate to processes or production unique to the owner or operator; or
- (c) If disclosed, would tend to affect adversely the competitive position of the owner or operator.

(Added to NRS by 1971, 1201; A 1973, 1821; 1975, 1405; 1993, 2855)—(Substituted in revision for NRS 445.576)

**NRS 445B.580 Officer of Department may inspect or search premises; search warrant.**

1. It is a condition of the issuance of any operating permit required by the Commission or pursuant to any local ordinance for the control of air pollution that the holder of the operating permit agrees to permit inspection of the premises to which the permit relates by any authorized officer of the Department at any time during the holder's hours of operation without prior notice. This condition must be stated on each application form and operating permit.

2. If a source of air contaminant exists or is constructed or operated without an operating permit, such an officer may inspect it at any reasonable time, and may enter any premises to search for such a source. If entry is refused, or before attempting to enter, such an officer may apply to any magistrate for a search warrant. The magistrate shall issue the warrant if he believes from the supporting affidavit or affidavits that there is probable cause to believe that a source of air contaminant exists or is being constructed or operated on the premises to be searched.

(Added to NRS by 1971, 1202; A 1973, 1822; 1993, 2855)—(Substituted in revision for NRS 445.581)

**NRS 445B.590 Account for the Management of Air Quality: Creation and administration; use; interest; payment of claims.**

1. The Account for the Management of Air Quality is hereby created in the State General Fund, to be administered by the Department.

2. Money in the Account for the Management of Air Quality must be expended only:

(a) To carry out and enforce the provisions of [NRS 445B.100](#) to [445B.640](#), inclusive, and of any regulations adopted pursuant to those sections, including, without limitation, the direct and indirect costs of:

- (1) Preparing regulations and recommendations for legislation regarding those provisions;
- (2) Furnishing guidance for compliance with those provisions;
- (3) Reviewing and acting upon applications for operating permits;
- (4) Administering and enforcing the terms and conditions of operating permits;
- (5) Monitoring emissions and the quality of the ambient air;
- (6) Preparing inventories and tracking emissions;
- (7) Performing modeling, analyses and demonstrations; and

(8) Establishing and administering a program for the provision of assistance, pursuant to 42 U.S.C. § 7661f, to small businesses operating stationary sources; and

(b) In any other manner required as a condition to the receipt of federal money for the purposes of [NRS 445B.100](#) to [445B.640](#), inclusive.

3. All interest earned on the money in the Account for the Management of Air Quality must be credited to the Account. Claims against the Account for the Management of Air Quality must be paid as other claims against the State are paid.

(Added to NRS by 1993, 2849; A [2003, 345](#))

**NRS 445B.595 Governmental sources of air contaminants to comply with state and local provisions regarding air pollution; permit to set fire for training purposes; planning and zoning agencies to consider effects on quality of air.**

1. Except as otherwise provided by subsection 2, all governmental sources of air contaminants shall comply with all local and state air pollution laws, regulations and ordinances.

2. A fire department, county fire protection district, fire protection training academy or training center may, after obtaining a permit for a specific site, set a fire at that site for training purposes so long as the site is not within an area in which an air pollution episode or emergency constituting, or likely to constitute, an imminent and substantial danger to the health of persons exists. The permit must be obtained from:

- (a) The county air pollution control agency, if one has been designated pursuant to [NRS 445B.500](#); or
- (b) The Director, if an agency has not been so designated.

3. All planning commissions, zoning boards of adjustment, and governing bodies of unincorporated towns, incorporated cities and counties shall in the performance of their duties imposed by [chapter 278](#) of NRS or other statutes relating to planning and zoning consider the effects of possible air pollution and shall submit to the



Department for evaluation a concise statement of the effects on air quality by complex sources.

(Added to NRS by 1971, 1202; A 1973, 1822; 1975, 1406; 1989, 584)—(Substituted in revision for NRS 445.586)

**NRS 445B.600 Private rights and remedies not affected.** [NRS 445B.100](#) to [445B.595](#), inclusive, does not abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor in the courts of this state or the courts of the United States on a tort claim against the United States or a federal agency as authorized by federal statutes.

(Added to NRS by 1971, 1202; A 1985, 292)—(Substituted in revision for NRS 445.596)

**NRS 445B.610 Provisions for transition in administration.**

1. All rules, regulations and standards promulgated by the State Commission of Environmental Protection pertaining to air pollution control in force on July 1, 1973, shall remain in effect until such time as revised by the State Environmental Commission pursuant to [NRS 445B.100](#) to [445B.640](#), inclusive.

2. Any and all action taken by the State Commission of Environmental Protection, including but not limited to existing orders, notices of violation, variances, permits, cease and desist orders and compliance schedules, shall remain in full force and effect and binding upon the State Environmental Commission, the Director, the Department and all persons to whom such action may apply on or after July 1, 1973.

3. In the event that a local air pollution control program described in [NRS 445B.500](#) is transferred in whole or in part from an existing air pollution control agency to another agency, all rules and regulations adopted by the existing agency may be readopted as amended to reflect the transfer of authorities by the new agency immediately upon such transfer, and the provisions of [NRS 445B.215](#) shall not apply to such readoption.

4. If a transfer of local authority as described in subsection 3 occurs, all orders, notices of violation, variances, cease and desist orders, compliance schedules and other legal action taken by the existing air pollution control board, control officer, or hearing board shall remain in full force and effect, and shall not be invalidated by reason of such transfer.

(Added to NRS by 1973, 1810)—(Substituted in revision for NRS 445.598)

## PENALTIES

**NRS 445B.640 Levy and disposition of administrative fines; additional remedies available; penalty.**

1. Except as otherwise provided in subsection 4 and [NRS 445C.010](#) to [445C.120](#), inclusive, any person who violates any provision of [NRS 445B.100](#) to [445B.450](#), inclusive, and [445B.470](#) to [445B.640](#), inclusive, or any regulation in force pursuant thereto, other than [NRS 445B.570](#) on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$10,000 per day per offense. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines not exceeding \$500 for lesser violations of any provision of [NRS 445B.100](#) to [445B.450](#), inclusive, and [445B.470](#) to [445B.640](#), inclusive, or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of [NRS 445B.100](#) to [445B.450](#), inclusive, and [445B.470](#) to [445B.640](#), inclusive, regulations in force pursuant thereto, and orders made pursuant to [NRS 445B.100](#) to [445B.450](#), inclusive, and [445B.470](#) to [445B.640](#), inclusive, by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to persons found by the court to be indigent.

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

(Added to NRS by 1971, 1202; A 1973, 1822; 1975, 1406; 1977, 70; 1989, 736; 1993, 2856; 1997, 1080)

## CONTROL OF EMISSIONS FROM ENGINES

**NRS 445B.700 Definitions.** As used in [NRS 445B.700](#) to [445B.845](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 445B.705](#) to [445B.758](#), inclusive, have the meanings ascribed to them

in those sections.

(Added to NRS by 1973, 1702; A 1977, 920; 1985, 1991; 1991, 756, 2019; 1993, 2856; 1995, 2353; 1997, 2055; [2001, 2681](#); [2003, 599](#))

**NRS 445B.705 “Approved inspector” defined.** “Approved inspector” means a person licensed by the Department of Motor Vehicles to inspect motor vehicles and devices for the control of pollution for an authorized station or authorized inspection station.

(Added to NRS by 1993, 2850; A [2001, 2617](#))

**NRS 445B.710 “Authorized inspection station” defined.** “Authorized inspection station” means a station licensed by the Department of Motor Vehicles for inspecting motor vehicles and devices for the control of pollution for compliance with this chapter or any applicable federal regulation or regulation of the Commission.

(Added to NRS by 1993, 2850; A [2001, 2617](#))

**NRS 445B.715 “Authorized maintenance station” defined.** “Authorized maintenance station” means a station licensed by the Department of Motor Vehicles for installing, repairing and adjusting devices for the control of pollution to meet the Commission’s requirements.

(Added to NRS by 1993, 2851; A [2001, 2617](#))

**NRS 445B.720 “Authorized station” defined.** “Authorized station” means a station licensed by the Department of Motor Vehicles for inspecting motor vehicles and devices for the control of pollution for compliance with this chapter or any applicable federal regulation or regulation of the Commission and for installing, repairing and adjusting such devices to meet the Commission’s requirements.

(Added to NRS by 1993, 2851; A [2001, 2617](#))

**NRS 445B.725 “Commission” defined.** “Commission” means the State Environmental Commission.

(Added to NRS by 1993, 2851)—(Substituted in revision for NRS 445.613)

**NRS 445B.730 “Evidence of compliance” defined.** “Evidence of compliance” includes a certificate issued when a motor vehicle has been inspected and:

1. Has the required equipment; or
2. Does not meet the requirements for the control of emissions after the repairs have been made and the Commission waives compliance.

(Added to NRS by 1993, 2851)—(Substituted in revision for NRS 445.6135)

**NRS 445B.735 “Fleet station” defined.** “Fleet station” means a facility which is licensed by the Department to conduct inspections of the motor vehicles of qualified owners or lessees.

(Added to NRS by 1993, 2851)—(Substituted in revision for NRS 445.614)

**NRS 445B.737 “Heavy-duty motor vehicle” defined.** “Heavy-duty motor vehicle” means, except as otherwise provided in [NRS 445B.780](#), a motor vehicle that has a manufacturer’s gross vehicle weight rating of 8,500 pounds or more. The term does not include a passenger car.

(Added to NRS by [2003, 599](#))

**NRS 445B.740 “Light-duty motor vehicle” defined.** “Light-duty motor vehicle” means a motor vehicle that has a manufacturer’s gross vehicle weight rating of less than 8,500 pounds.

(Added to NRS by 1993, 2851)—(Substituted in revision for NRS 445.6145)

**NRS 445B.745 “Motor vehicle” defined.** “Motor vehicle” means every self-propelled vehicle in, upon or by which any person or property is or may be transported or drawn upon a public highway except:

1. Devices moved by human or animal power or used exclusively on stationary rails; and
2. Electric personal assistive mobility devices as defined in [NRS 482.029](#).

(Added to NRS by 1993, 2851; A [2003, 1207](#))

**NRS 445B.747 “Motor vehicle fuel” defined.** “Motor vehicle fuel” has the meaning ascribed to it in [NRS 365.060](#).

(Added to NRS by [2003, 599](#))

**NRS 445B.750 “Passenger car” defined.** “Passenger car” has the meaning ascribed to it in [NRS 484.101](#).

(Added to NRS by 1993, 2851)—(Substituted in revision for NRS 445.6155)

**NRS 445B.755 “Pollution control device” defined.** “Pollution control device” means any equipment that is installed in a motor vehicle for the primary purpose of limiting emissions from the motor vehicle into the ambient air.

(Added to NRS by 1993, 2851)—(Substituted in revision for NRS 445.616)

**NRS 445B.757 “Special fuel” defined.** “Special fuel” has the meaning ascribed to it in [NRS 366.060](#).

(Added to NRS by [2003, 599](#))

**NRS 445B.758 “Used motor vehicle” defined.** “Used motor vehicle” means a motor vehicle that has been registered for not less than 2 years with:

1. The Department of Motor Vehicles;
2. The appropriate agency of any other state, the District of Columbia, any territory or possession of the United States, any foreign country or any state or province of a foreign country; or
3. Any combination of the agencies described in subsections 1 and 2.

(Added to NRS by 1995, 2353; A [2001, 2617](#))

**NRS 445B.759 Inapplicability to military tactical vehicles.**

1. The provisions of [NRS 445B.700](#) to [445B.845](#), inclusive, do not apply to military tactical vehicles.

2. As used in this section, “military tactical vehicle” means a motor vehicle that is:

(a) Owned or controlled by the United States Department of Defense or by a branch of the Armed Forces of the United States; and

(b) Used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(Added to NRS by [2003, 599](#))

**NRS 445B.760 Authority of Commission to prescribe standards for emissions from mobile internal combustion engines; trimobiles; standards pertaining to motor vehicles to be approved by Department of Motor Vehicles.**

1. The State Environmental Commission may by regulation prescribe standards for exhaust emissions, fuel evaporative emissions and visible emissions of smoke from mobile internal combustion engines on the ground or in the air, including, but not limited to, aircraft, motor vehicles, snowmobiles and railroad locomotives. The regulations must:

(a) Provide for the exemption from such standards of restored vehicles for which special license plates have been issued pursuant to [NRS 482.381](#), [482.3812](#), [482.3814](#) or [482.3816](#).

(b) Establish criteria for the condition and functioning of a restored vehicle to qualify for the exemption, and provide that the evaluation of the condition and functioning of such a vehicle may be conducted at an authorized inspection station or authorized station as defined in [NRS 445B.710](#) and [445B.720](#), respectively.

(c) Define “restored vehicle” for the purposes of the regulations.

2. Standards for exhaust emissions which apply to a trimobile must be based on standards which were in effect in the year in which the engine of the trimobile was built.

3. Any such standards which pertain to motor vehicles must be approved by the Department of Motor Vehicles before they are adopted by the Commission.

(Added to NRS by 1973, 1702; A 1979, 857; 1985, 803; 1997, 2650; [2001, 2617](#))

**NRS 445B.765 Information concerning program for control of emissions from motor vehicles: Collection, interpretation and correlation; public inspection.**

1. The Commission, in cooperation with the Department of Motor Vehicles, shall adopt regulations which establish procedures for collecting, interpreting and correlating information concerning programs to control emissions from motor vehicles and any benefits which result from an inspection program.

2. All information received by the Commission or the Department of Motor Vehicles is open to public inspection.

(Added to NRS by 1977, 919; A 1985, 1992; [2001, 2618](#))

**NRS 445B.770 Regulations of Commission: Control of emissions from motor vehicles; program for inspection and testing of motor vehicles.**

1. In any county whose population is 100,000 or more, the Commission shall, in cooperation with the Department of Motor Vehicles and any local air pollution control agency, adopt regulations for the control of emissions from motor vehicles in areas of the county designated by the Commission.

2. In any county whose population is less than 100,000, if the Commission determines that it is feasible and practicable to carry out a program of inspecting and testing motor vehicles and systems for the control of emissions from motor vehicles, and if carrying out the program is deemed necessary to achieve or maintain the prescribed standards for the quality of ambient air in areas of the State designated by the Commission, the Commission shall, in cooperation with the Department of Motor Vehicles and any local air pollution control agency established under [NRS 445B.500](#) which has jurisdiction in a designated area, adopt regulations and transportation controls as may be necessary to carry out the program.

3. The regulations must distinguish between light-duty and heavy-duty motor vehicles and may prescribe:

(a) Appropriate criteria and procedures for the approval, installation and use of devices for the control of emissions from motor vehicles; and

(b) Requirements for the proper maintenance of such devices and motor vehicles.

4. The regulations must establish:

(a) Requirements by which the Department of Motor Vehicles shall license authorized stations to inspect, repair, adjust and install devices for the control of emissions for motor vehicles, including criteria by which any person may become qualified to inspect, repair, adjust and install those devices.

(b) Requirements by which the Department of Motor Vehicles may license an owner or lessee of a fleet of three or more vehicles as a fleet station if the owner or lessee complies with the regulations of the Commission. The fleet station shall only certify vehicles which constitute that fleet.

(c) Requirements by which the Department of Motor Vehicles provides for inspections of motor vehicles owned by this State and any of its political subdivisions.

5. The Commission shall consider, before adopting any regulation or establishing any criteria pursuant to paragraph (a) of subsection 3:

(a) The availability of devices adaptable to specific makes, models and years of motor vehicles.

(b) The effectiveness of those devices for reducing the emission of each type of air pollutant under conditions in this State.

(c) The capability of those devices for reducing any particular type or types of pollutants without significantly increasing the emission of any other type or types of pollutant.

(d) The capacity of any manufacturer to produce and distribute the particular device in such quantities and at such times as will meet the estimated needs in Nevada.

(e) The reasonableness of the retail cost of the device and the cost of its installation and maintenance over the life of the device and the motor vehicle.

(f) The ease of determining whether any such installed device is functioning properly.

(Added to NRS by 1973, 1703; A 1977, 920; 1979, 547; 1981, 1047; 1985, 1992; [2001, 2618](#))

**NRS 445B.775 Regulations of Commission: Requirements for licensing of stations by Department of Motor Vehicles.** The regulations adopted pursuant to [NRS 445B.770](#) must establish requirements by which the Department of Motor Vehicles may license:

1. Authorized inspection stations, including criteria by which any person may become qualified to inspect devices for the control of emissions for motor vehicles. The regulations adopted pursuant to [NRS 445B.770](#) must provide that a facility licensed as an authorized inspection station:

(a) Except as otherwise provided in paragraph (b), may not, unless specifically authorized by the Commission, install, repair, diagnose or adjust any component or system of a motor vehicle that affects exhaust emissions.

(b) May perform the following activities in connection with a motor vehicle:

(1) The changing of oil;

(2) The replacing of an oil filter, air filter, fuel filter, belt or hose; and

(3) The servicing of a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

2. Authorized maintenance stations, including criteria by which any person may become qualified to install, repair and adjust devices for the control of emissions for motor vehicles.

3. Authorized stations, including criteria by which any person may become qualified to inspect, repair, adjust and install devices for the control of emissions for motor vehicles.

(Added to NRS by 1993, 2851; A [2001, 2619](#); [2005, 2323](#))



**NRS 445B.776 Application for license must include social security number.** [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] An application for the issuance of a license to inspect, repair, adjust or install devices for the control of emissions of motor vehicles issued pursuant to [NRS 445B.775](#) must include the social security number of the applicant.

(Added to NRS by 1997, 2054)

**NRS 445B.777 Payment of child support: Statement by applicant for license; grounds for denial of license; duty of Department of Motor Vehicles.** [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. An applicant for the issuance or renewal of a license to inspect, repair, adjust or install devices for the control of emissions of motor vehicles issued pursuant to [NRS 445B.775](#) shall submit to the Department of Motor Vehicles the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to [NRS 425.520](#). The statement must be completed and signed by the applicant.

2. The Department of Motor Vehicles shall include the statement required pursuant to subsection 1 in:

- (a) The application or any other forms that must be submitted for the issuance or renewal of the license; or
- (b) A separate form prescribed by the Department of Motor Vehicles.

3. A license to inspect, repair, adjust or install devices for the control of emissions of motor vehicles may not be issued or renewed by the Department of Motor Vehicles if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department of Motor Vehicles shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1997, 2054; A [2001, 2619](#))

**NRS 445B.778 Suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license.** [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Department of Motor Vehicles receives a copy of a court order issued pursuant to [NRS 425.540](#) that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to inspect, repair, adjust or install devices for the control of emissions of motor vehicles, the Department of Motor Vehicles shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department of Motor Vehicles receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to [NRS 425.550](#) stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

2. The Department of Motor Vehicles shall reinstate a license to inspect, repair, adjust or install devices for the control of emissions of motor vehicles that has been suspended by a district court pursuant to [NRS 425.540](#) if the Department of Motor Vehicles receives a letter issued by the district attorney or other public agency pursuant to [NRS 425.550](#) to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

(Added to NRS by 1997, 2054; A [2001, 2620](#))

**NRS 445B.780 Program for regulation of emissions from heavy-duty motor vehicles; equipment used to measure emissions; waiver from requirements of program.**



1. The Commission shall, by regulation, establish a program for the regulation of smoke and other emissions by inspection of heavy-duty motor vehicles that are powered by diesel fuel or motor vehicle fuel.

2. The Commission shall adopt regulations concerning:

(a) The equipment used to measure smoke and other emissions of heavy-duty motor vehicles.

(b) The granting of a waiver if compliance involves repair and equipment costs which exceed the limits established by the Commission. The Commission shall establish the limits in a manner which avoids unnecessary financial hardship to owners of heavy-duty motor vehicles.

3. As used in this section, "heavy-duty motor vehicle" means a motor vehicle that has a manufacturer's gross vehicle weight rating of 10,001 pounds or more. The term does not include a passenger car.

(Added to NRS by 1991, 2018; A [2003, 599](#))

**NRS 445B.785 Regulations of Department of Motor Vehicles: Licensing of stations; performance of inspection and issuance of evidence of compliance; diagnostic equipment; fee, bond or insurance; informational pamphlet; distribution.**

1. The Department of Motor Vehicles shall adopt regulations which:

(a) Prescribe requirements for licensing authorized inspection stations, authorized maintenance stations, authorized stations and fleet stations. The regulations adopted by the Department of Motor Vehicles pursuant to this paragraph must provide that a facility licensed as an authorized inspection station:

(1) Except as otherwise provided in subparagraph (2), may not, unless specifically authorized by the Commission, install, repair, diagnose or adjust any component or system of a motor vehicle that affects exhaust emissions.

(2) May perform the following activities in connection with a motor vehicle:

(I) The changing of oil;

(II) The replacing of an oil filter, air filter, fuel filter, belt or hose; and

(III) The servicing of a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(b) Prescribe the manner in which authorized inspection stations, authorized stations and fleet stations inspect motor vehicles and issue evidence of compliance.

(c) Prescribe the diagnostic equipment necessary to perform the required inspection. The regulations must ensure that the equipment complies with any applicable standards of the United States Environmental Protection Agency.

(d) Provide for any fee, bond or insurance which is necessary to carry out the provisions of [NRS 445B.700](#) to [445B.815](#), inclusive.

(e) Provide for the issuance of a pamphlet for distribution to owners of motor vehicles. The pamphlet must contain information explaining the reasons for and the methods of the inspections.

2. The Department of Motor Vehicles shall issue a copy of the regulations to each authorized inspection station, authorized maintenance station, authorized station and fleet station.

(Added to NRS by 1977, 919; A 1979, 1034; 1985, 1993; 1993, 2857; [2001, 2620](#); [2005, 2323](#))

**NRS 445B.790 Regulations concerning inspection of stations; grounds for denial, suspension or revocation of license of inspector or station.**

1. The Department of Motor Vehicles shall, by regulation, establish procedures for inspecting authorized inspection stations, authorized maintenance stations, authorized stations and fleet stations, and may require the holder of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station to submit any material or document which is used in the program to control emissions from motor vehicles.

2. The Department may deny, suspend or revoke the license of an approved inspector, authorized inspection station, authorized maintenance station, authorized station or fleet station if:

(a) The approved inspector or the holder of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station is not complying with the provisions of [NRS 445B.700](#) to [445B.815](#), inclusive.

(b) The holder of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station refuses to furnish the Department with the requested material or document.

(c) The approved inspector has issued a fraudulent certificate of compliance, whether intentionally or negligently. A "fraudulent certificate" includes, but is not limited to:

(1) A backdated certificate;

(2) A postdated certificate; and

(3) A certificate issued without an inspection.

(d) The approved inspector does not follow the prescribed test procedure.

(Added to NRS by 1977, 919; A 1979, 1034; 1985, 1994; 1993, 2857; 1995, 94; [2001, 2620](#); [2003, 1412](#))

**NRS 445B.795 Compulsory program for control of emissions: Limitations.** The authority set forth in [NRS 445B.770](#) providing for a compulsory inspection program is limited as follows:

1. In a county whose population is 100,000 or more, the following categories of motor vehicles which are powered by motor vehicle fuel or special fuel and require inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#) are required to have evidence of compliance upon registration or reregistration:

- (a) All passenger cars;
- (b) Light-duty motor vehicles; and
- (c) Heavy-duty motor vehicles having a manufacturer's gross vehicle weight rating which does not exceed 10,000 pounds.

2. In areas which have been designated by the Commission for inspection programs and which are located in counties whose populations are 100,000 or more, all used motor vehicles which require inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#) are required to have evidence of compliance upon registration or reregistration.

3. In designated areas in other counties where the Commission puts a program into effect, all used motor vehicles which require inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#) are required to have evidence of compliance upon registration or reregistration.

4. The board of county commissioners of a county containing a designated area may revise its program for the designated area after receiving the approval of the Commission.

5. Before carrying out the inspections of vehicles required pursuant to the regulations adopted by the Commission pursuant to [NRS 445B.770](#), the Commission shall, by regulation, adopt testing procedures and standards for emissions for those vehicles.

(Added to NRS by 1975, 1408; A 1977, 921; 1979, 989; 1981, 1046; 1983, 1363; 1991, 2019; 1995, 95; [2003, 600](#))

**NRS 445B.798 Authority of Department of Motor Vehicles, in larger counties, to conduct test of emissions from motor vehicle being operated on highway.** In a county whose population is 100,000 or more, the Department of Motor Vehicles may conduct a test of the emissions from a motor vehicle which is being operated on a highway in that county to determine whether the vehicle complies with the provisions of [NRS 445B.700](#) to [445B.845](#), inclusive, and the regulations adopted pursuant thereto.

(Added to NRS by 1995, 2353; A [2001, 2621](#))

**NRS 445B.800 Evidence of compliance: Requirements for registration, sale or long-term lease of used vehicles in certain counties.**

1. Subject to any applicable limitation of [NRS 445B.700](#) to [445B.815](#), inclusive, and any regulation adopted pursuant thereto, no used motor vehicle which requires inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#) may be registered unless the application for registration is accompanied by evidence of compliance issued by any authorized inspection station, authorized station or fleet station certifying that the vehicle is equipped with devices for the control of pollution from motor vehicles required by federal regulation or such other requirements as the Commission may by regulation prescribe under the provisions of [NRS 445B.700](#) to [445B.845](#), inclusive.

2. If:

(a) A seller of a used vehicle is required to complete a dealer's report of sale pursuant to the provisions of [NRS 482.424](#); or

(b) A long-term lessor of a used vehicle is required to complete a long-term lessor's report of lease pursuant to the provisions of [NRS 482.4245](#),

the seller or long-term lessor shall also provide the buyer or long-term lessee with any evidence of compliance required pursuant to subsection 1.

3. The requirements of this section apply only:

(a) To passenger cars and light-duty motor vehicles which use diesel fuel and are based in a county whose population is 100,000 or more; and

(b) In counties where a program of inspecting and testing motor vehicles and systems for the control of emissions from motor vehicles has been implemented pursuant to [NRS 445B.770](#).

(Added to NRS by 1973, 1703; A 1975, 1074, 1407; 1977, 921; 1991, 2020; 1993, 1395, 2858; 1995, 95, 727,

2353)—(Substituted in revision for NRS 445.640)

**NRS 445B.805 Evidence of compliance: Exemptions from requirements.** The provisions of [NRS 445B.800](#) do not apply to:

1. Transfer of registration or ownership between:
    - (a) Husband and wife; or
    - (b) Companies whose principal business is leasing of vehicles, if there is no change in the lessee or operator of the vehicle.
  2. Motor vehicles which are subject to prorated registration pursuant to the provisions of [NRS 706.801](#) to [706.861](#), inclusive, and which are not based in this State.
  3. Transfer of registration if evidence of compliance was issued within 90 days before the transfer.
- (Added to NRS by 1973, 1704; A 1977, 922; 1979, 568; 1985, 1994; 1995, 96)—(Substituted in revision for NRS 445.650)

**NRS 445B.810 State Department of Conservation and Natural Resources to provide assistance.** In furtherance of the provisions of [NRS 445B.700](#) to [445B.845](#), inclusive, and the enforcement thereof, the State Department of Conservation and Natural Resources shall consult with the Department of Motor Vehicles and furnish it with technical information, including testing techniques, procedures for quality assurance and standards adopted by the Commission, and instruction for emission control features and equipment.

(Added to NRS by 1973, 1704; A 1973, 1406; 1977, 922, 1038, 1143; 1985, 1994; [2001, 2621](#))

**NRS 445B.815 Evidence of compliance: Duty of employees and agents of Department of Motor Vehicles; submission by owner or lessee of fleet.**

1. Except as otherwise provided in subsection 2, persons employed at branch offices of the Department of Motor Vehicles and the offices of county assessors who are acting as agents of the Department in the collection of fees for registration, shall not register:

- (a) A passenger car or light-duty motor vehicle which:
  - (1) Uses motor vehicle fuel or special fuel;
  - (2) Is based in a county whose population is 100,000 or more; and
  - (3) Requires inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#);
- (b) A heavy-duty motor vehicle having a manufacturer's gross vehicle weight rating which does not exceed 10,000 pounds, that:
  - (1) Uses motor vehicle fuel or special fuel;
  - (2) Is based in a county whose population is 100,000 or more; and
  - (3) Requires inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#); or
- (c) A vehicle which:
  - (1) Is based in an area of this State designated by the Commission; and
  - (2) Requires inspection pursuant to the regulations adopted by the Commission under [NRS 445B.770](#),

until evidence of compliance with [NRS 445B.700](#) to [445B.845](#), inclusive, has been provided.

2. An owner or lessee of a fleet of three or more vehicles may, upon application to the Department of Motor Vehicles, submit evidence of compliance for his motor vehicles in a manner determined by that Department.

(Added to NRS by 1973, 1704; A 1977, 922; 1985, 1995; 1991, 2020; 1995, 96; [2001, 2621](#); [2003, 601](#))

**NRS 445B.820 Installation and inspection of pollution control device.** Any person may install a motor vehicle pollution control device, but no person who is not employed by an authorized maintenance station, authorized station or fleet station may install a device for compensation. No such device shall be deemed to meet the requirements of [NRS 445B.770](#) to [445B.815](#), inclusive, or regulations of the Commission or Department unless it has been inspected in an authorized inspection station, authorized station or fleet station, and evidence of compliance has been issued by that station.

(Added to NRS by 1973, 1704; A 1977, 922; 1993, 2858)—(Substituted in revision for NRS 445.680)

**NRS 445B.825 Exemption of certain classes of motor vehicles; waiver from provisions of [NRS 445B.770](#) to [445B.815](#), inclusive.**

1. The Commission may provide for exemption from the provisions of [NRS 445B.770](#) to [445B.815](#), inclusive, of designated classes of motor vehicles, including classes based upon the year of manufacture of motor vehicles.

2. The Commission shall provide for a waiver from the provisions of [NRS 445B.770](#) to [445B.815](#), inclusive, if compliance involves repair and equipment costs which exceed the limits established by the Commission. The Commission shall establish the limits in a manner which avoids unnecessary financial hardship to motor vehicle owners.

(Added to NRS by 1973, 1704; A 1977, 923)—(Substituted in revision for NRS 445.690)

**NRS 445B.830 Fees to be paid to Department of Motor Vehicles; Pollution Control Account; expenditure of money in Account; quarterly distributions to local governments; annual reports by local governments; grants; creation and duties of advisory committee; submission and approval of proposed grants.**

1. In areas of the State where and when a program is commenced pursuant to [NRS 445B.770](#) to [445B.815](#), inclusive, the following fees must be paid to the Department of Motor Vehicles and accounted for in the Pollution Control Account, which is hereby created in the State General Fund:

(a) For the issuance and annual renewal of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station..... \$25

(b) For each set of 25 forms certifying emission control compliance..... 150

(c) For each form issued to a fleet station..... 6

2. Except as otherwise provided in subsections 6, 7 and 8, and after deduction of the amounts distributed pursuant to subsection 4, money in the Pollution Control Account may, pursuant to legislative appropriation or with the approval of the Interim Finance Committee, be expended by the following agencies in the following order of priority:

(a) The Department of Motor Vehicles to carry out the provisions of [NRS 445B.770](#) to [445B.845](#), inclusive.

(b) The State Department of Conservation and Natural Resources to carry out the provisions of this chapter.

(c) The State Department of Agriculture to carry out the provisions of [NRS 590.010](#) to [590.150](#), inclusive.

(d) Local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air.

(e) The Tahoe Regional Planning Agency to carry out the provisions of [NRS 277.200](#) with respect to the preservation and improvement of air quality in the Lake Tahoe Basin.

3. The Department of Motor Vehicles may prescribe by regulation routine fees for inspection at the prevailing shop labor rate, including, without limitation, maximum charges for those fees, and for the posting of those fees in a conspicuous place at an authorized inspection station or authorized station.

4. The Department of Motor Vehicles shall make quarterly distributions of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408. The distributions of money made to agencies in a county pursuant to this subsection must be made from an amount of money in the Pollution Control Account that is equal to one-sixth of the amount received for each form issued in the county pursuant to subsection 1.

5. Each local governmental agency that receives money pursuant to subsection 4 shall, not later than 45 days after the end of the fiscal year in which the money is received, submit to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee a report on the use of the money received.

6. The Department of Motor Vehicles shall by regulation establish a program to award grants of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air. The grants to agencies in a county pursuant to this subsection must be made from any excess money in the Pollution Control Account. As used in this subsection, "excess money" means the money in excess of \$1,000,000 remaining in the Pollution Control Account at the end of the fiscal year, after deduction of the amounts distributed pursuant to subsection 4 and any disbursements made from the Account pursuant to subsection 2.

7. Any regulations adopted pursuant to subsection 6 must provide for the creation of an advisory committee consisting of representatives of state and local agencies involved in the control of emissions from motor vehicles. The committee shall:

(a) Review applications for grants and make recommendations for their approval, rejection or modification;

(b) Establish goals and objectives for the program for control of emissions from motor vehicles;

(c) Identify areas where funding should be made available; and

(d) Review and make recommendations concerning regulations adopted pursuant to subsection 6 or [NRS](#)

[445B.770](#).

8. Grants proposed pursuant to subsections 6 and 7 must be submitted to the appropriate deputy director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. Proposed grants approved by the appropriate deputy director



and the Administrator must not be awarded until approved by the Interim Finance Committee.

(Added to NRS by 1973, 1704; A 1975, 315; 1977, 923; 1979, 109; 1981, 1059; 1985, 1995; 1989, 957; 1991, 1356, 1770, 2020; 1993, 596, 2859; 1997, 3079; [1999, 2723](#), [2724](#), [3593](#); [2001, 195](#), [2622](#), [2681](#); [2003, 180](#), [2555](#); [2005, 896](#))

**NRS 445B.832 Surcharge for electronic transmission of information: Authority to impose; inclusion as separate entry on form certifying emission control compliance; definition.**

1. If an authorized station or authorized inspection station is required to collect a fee pursuant to subsection 1 of [NRS 445B.830](#), the station may charge a customer whose vehicle is inspected by the station the amount of any electronic transmission surcharge that the station incurs to obtain information which the station is required by law to obtain with respect to that customer's vehicle.

2. An electronic transmission surcharge that is charged to a customer pursuant to subsection 1 must be set forth as a separate entry on the form certifying emission control compliance which the authorized station or authorized inspection station provides to the customer.

3. As used in this section, "electronic transmission surcharge" means the amount that an authorized station or authorized inspection station is required to pay to a contractor who owns or operates a database for the identification of vehicles for the transmission of information regarding a particular vehicle from the database to the authorized station or authorized inspection station.

(Added to NRS by [2001, 2680](#))

**NRS 445B.834 Additional fee for form certifying emission control compliance: Retention of portion of fee by station performing inspection; definition.**

1. If the board of county commissioners of a county is authorized to impose an additional fee for each form certifying emission control compliance, the board shall ensure that 2 percent of any such fee it imposes is retained as a commission by the authorized station or authorized inspection station that performs the inspection pursuant to which the form certifying emission control compliance is issued.

2. As used in this section, "additional fee" does not include any fee that is imposed pursuant to paragraph (a), (b) or (c) of subsection 1 of [NRS 445B.830](#).

(Added to NRS by [2001, 2681](#))

**NRS 445B.835 Administrative fine; hearing; additional remedies to compel compliance.**

1. The Department of Motor Vehicles may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of [NRS 445B.700](#) to [445B.845](#), inclusive, or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of [NRS 233B.121](#).

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Pollution Control Account.

3. In addition to any other remedy provided by [NRS 445B.700](#) to [445B.845](#), inclusive, the Department may compel compliance with any provision of [NRS 445B.700](#) to [445B.845](#), inclusive, and any rule, regulation or order adopted or issued pursuant thereto, by injunction or other appropriate remedy and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

(Added to NRS by 1991, 756; A 1993, 553; [2001, 2623](#))

**NRS 445B.840 Unlawful acts.** It is unlawful for any person to:

1. Possess any unauthorized evidence of compliance;
2. Make, issue or use any imitation or counterfeit evidence of compliance;
3. Willfully and knowingly fail to comply with the provisions of [NRS 445B.700](#) to [445B.815](#), inclusive, or any regulation adopted by the Department of Motor Vehicles; or
4. Issue evidence of compliance if he is not a licensed inspector of an authorized inspection station, authorized station or fleet station.

(Added to NRS by 1977, 919; A 1985, 1995; 1993, 2860; [2001, 2623](#))

**NRS 445B.845 Criminal penalty; enforcement of provisions by peace officer; mitigation of offense.**

1. A violation of any provision of [NRS 445B.700](#) to [445B.845](#), inclusive, relating to motor vehicles, or any regulation adopted pursuant thereto relating to motor vehicles, is a misdemeanor. The provisions of [NRS 445B.700](#)



to [445B.845](#), inclusive, or any regulation adopted pursuant thereto, must be enforced by any peace officer.

2. Satisfactory evidence that the motor vehicle or its equipment conforms to those provisions or regulations, when supplied by the owner of the motor vehicle to the Department of Motor Vehicles within 10 days after the issuance of a citation pursuant to subsection 1, may be accepted by the court as a complete or partial mitigation of the offense.

(Added to NRS by 1973, 1705; A 1985, 1995; [2001, 2623](#); [2003, 601](#))